

Remarks

The various parts of the Office Action are discussed below under similar headings.

Election/Restriction

The Examiner issued a restriction requirement under 35 U.S.C. § 121, requiring the applicant to elect one of: claims 1-20 (Set I), claims 21-35 (Set II) or claims 36-40 (Set III).

Applicant elects to prosecute claims 1-20. Accordingly, claims 21-40 are being cancelled.

Claims

Claims 2, 5, 6, 7, 11 and 16-19 have been amended to clarify the claimed invention. Claims 21-40 have been cancelled in response to the Examiner's restriction requirement.

Drawings

The Examiner objected to the drawings because it was determined that the ridges oriented in a different direction of claims 6 and 17 were not shown in the drawings. Figures 5A and 5B have been amended to include the subject matter claimed in claims 6 and 17. Care has been taken to avoid entering new matter. A replacement sheet is attached.

It is respectfully submitted that the drawings meet the requirements of 37 CFR § 1.83(a).

Rejections - 35 USC §§ 102 and 103

Claims 1-2, 4-11 and 14-20 were rejected under 35 U.S.C. § 102(b) as being anticipated by Shelokov (U.S. Patent No. 6,039,763). Shelokov teaches an artificial spinal disc implant, which is very different than a facet implant. The implant

disclosed in Shelokov is designed and dimensioned to replace an intervertebral disc, such as the intervertebral disc 34 of the present application. Unlike the claimed facet implant, the artificial disc implant of Shelokov is not configured for placement on a superior articular facet, nor is it configured for placement on an inferior articular facet. In fact, the word "facet" does not appear anywhere in the specification of Shelokov.

Each of independent claims 1, 14 and 20 require a superior implant configured for placement on a superior articular facet and an inferior implant configured for placement on an inferior articular facet. Shelokov discloses neither.

Moreover, it is respectfully submitted that Shelokov does not disclose a translaminar fixation mechanism. Indeed, Shelokov never even mentions the spinal lamina. The Examiner relies on figures 1a-1c, 2a-2c, 5a-5d and 7, as well as column 9, lines 40-46 as disclosing the claimed translaminar fixation mechanism. Applicant respectfully submits that the Examiner's reliance is misplaced. Figures 1a-1b, 2a-2b and 5a-5b disclose only an artificial disc implant—no environmental view is provided. Figure 7 provides an environmental view, but discloses an artificial disc attached to the bodies (such as the body 14 disclosed in the present application) of the vertebrae. None of the figures of Shelokov disclose a translaminar fixation mechanism. Likewise, the portion of the description in Shelokov upon which the Examiner relies appears to be unrelated to translaminar fixation:

The holes (8, 15), if present, can be shaped as desired. They can be adapted to receive and retain screws, nails, rivets, spikes and other articles used to secure the plates (1, 10, respectively) to adjacent vertebrae. For example, the holes (8, 15) can be countersunk or can have locking methods or mechanisms which stabilize the screw to the artificial intervertebral disc prosthesis. (Column 9, lines 40-46.)

While the cited text above relates to the fixation of an artificial spinal disc implant, it does not disclose any type of laminar fixation.

It is therefore respectfully submitted that Shelokov does not anticipate any of claims 1-20.

Conclusion

This application is now in condition for allowance and an early action to that effect is earnestly solicited.

Respectfully submitted,

RENNER, OTTO, BOISSELLE & SKLAR, LLP

By


Mark C. Johnson, Reg. No. 51,854

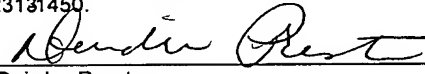
1621 Euclid Avenue
Nineteenth Floor
Cleveland, Ohio 44115
(216) 621-1113

CERTIFICATE OF MAILING (37 CFR§ 1.8a)

I hereby certify that this paper (along with any paper or thing referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 223131450.

Date:

May 5, 2006


Deirdre Preston

M:\H\HORA\P0101USApplication\HORA.P0101US.R01.doc.